

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4848 of 2004

Between:

Nawab Shafath Ali Khan, S/o.(Late) Nawab Arshad Ali Khan,
R/o.Alivilla, 11-5-292, Hill Park road,
Red Hills, Hyderabad.

..... PETITIONER

AND

- 1 Govt.of A.P.,rep.by Prl.Secretary, Home (Arms)Dept.,Secretariat, Hyderabad.
- 2 Sri Bharath Chandra, Prl.Secretary, Home Dept.,Govt.of A.P.,
Secretariat,Hyderabad.
- 3 Commissioner of Police, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ and quash the order of the 1st respondent in Memo.No.40230/Arms/2001-26 dated 08-03-2004 and consequently direct the 1st respondent to renew the Arms License of the petitioner bearing No.9/Rifle/86 and Arms License bearing No.Vol.II/571/3 for every three years successively and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner:MR.V.VENKATARAMANA

Counsel for the Respondent No.: GP FOR HOME

The Court made the following :

ORDER:-

Heard Sri Vedula Venkataramana, learned Counsel for the petitioner as well as learned Government Pleader for Home appearing on behalf of the respondents and at their request, the writ petition itself is taken up for disposal.

Petitioner herein who is holding Arms License, filed this writ petition, inter alia, seeking to challenge the correctness of the impugned notice dated 8-3-2004 where under first respondent cancelled the existing license in exercise of powers under Section 17 (3) (b) of the Arms Act, 1958.

The case of the petitioner is that he is holding Arms License bearing No.9/Rifle/86, which was granted on 2-7-1986 with certain authorizations to possess one target model DBBL gun. He also possess another license bearing No.Vol.II/571/3 which was issued on 29-3-1978 for possessing a 22 target pistol and both the licenses are being renewed and there was no complaint as mentioned in the impugned order. Later, in view of change of place, he applied for re-registration of the said Arms Licenses and first respondent re-registered the licenses on 20-4-1999 and 14-3-2001 by recording his change of address. The said licenses were renewed up to 2-7-2002. Later, when the petitioner deposited all the weapons with M/s A.P.Armory, which is an authorized arms dealer, on 2-11-2001, first respondent called the petitioner and forcibly taken away the original Arms License No.9/Rifle/86, whereby, he filed Writ petition No.23426 of 2001 challenging the said action and for release of the license, which was disposed of on 3-7-2002 directing the respondents therein to consider his renewal application. Subsequently, his DBBL gun and 22 Pistol were seized from his house on 19-10-1991 in connection with a criminal case in Crime No.81 of 1991 of V.Kota Police Station, which was committed to Court of Sessions in S.C.No.207 of 1992 on the file of II Additional Metropolitan Sessions Judge, Hyderabad. The said case was finally ended in acquittal as per the Judgment dated 9-4-1999 and even the appeal in Criminal Appeal No. 795 of 1999 filed by the State against the said Judgment was dismissed by the Supreme Court of India on 21-11-2000. Since the weapons were not released, the petitioner filed another Writ Petition

No.25079 of 2000, which was allowed on 24-4-2002 directing return of the gun along with the ammunition. In spite of the said direction, the weapons were not released and the petitioner filed Contempt Case. Later, in pursuance of show-cause notice issued on 19-7-2002 proposing to cancel his Arms Licenses on certain grounds, the petitioner filed a detailed explanation. Without considering his explanation, first respondent passed orders on 19-8-2002 cancelling the Arms Licenses and the said order was challenged in Writ Petition No.15911 of 2002. The said writ petition was allowed on 6-1-2004 directing to reconsider the case of the petitioner after taking into consideration the explanation submitted by him. In spite of such directions, the petitioner complains that the impugned order came to be passed on the self same grounds and reiterating the cancellation of licenses on the ground of involvement of the petitioner in criminal cases and also for having connections with the activities of P.W.G. Hence this writ petition.

Learned counsel for the petitioner submitted that having regard to the acquittal of the petitioner in criminal case and there being no material warranting any such serious action of cancellation of existing license, impugned orders are totally vitiated.

Learned Government Pleader for Home, on the other hand, sought to repel the contention of the learned counsel for the petitioner that even if the criminal case is ended in acquittal, still the authorities have got powers to with-hold or cancel the licenses. Hence, the petitioner is not entitled to any relief.

Having heard the submissions made by both the learned counsel and on perusal of the material on record, the only point that arises in this writ petition is as to whether the orders of cancellation passed by the first respondent is valid in law?.

There is no dispute in regard to the fact that the petitioner was holding licenses and there is no other complaint except stating involvement in criminal case, which ended in acquittal. The other ground sought to be pressed into service by the respondents is involvement of petitioner in the activities with P.W.G. Even on a reading of the earlier orders of cancellation, which were set aside by this Court, these two grounds are being reiterated at every stage and the main ground to cancel the license is only involvement of petitioner in a criminal case, which was ended in acquittal. There is no material in support of the fact of involvement of the petitioner in the activities with P.W.G. except the sweeping statement. In the absence of such material, it is very

difficult to accept such ground to deny the legitimate right of the petitioner. Considering the submissions and also on perusal of the material, I am satisfied that the impugned orders are vitiated and did not have any basis for such serious action. Further, it is to be noticed that the petitioner is known to be a Sportsman, having participated in various shooting competitions.

Accordingly, this writ petition is allowed and the impugned order is set aside. The respondents shall consider the case of the petitioner for grant of renewal of licenses within a period of six weeks and pass appropriate orders. No costs.

31—08—2004.

Stv/-

To

1 Govt.of A.P.,rep.by Prl.Secretary, Home (Arms)Dept.,Secretariat, Hyderabad.

2 Sri Bharath Chandra, Prl.Secretary, Home Dept.,Govt.of A.P.,
Secretariat,Hyderabad.

3 Commissioner of Police, Hyderabad.

4 2CCs to the Government Pleader for Home, High Court Buildings, Hyderabad.

5 2CD copies